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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/113,491	07/10/1998	ROSS W. CALON	IBN-0002	8100
24739	7590	07/14/2004	EXAMINER	
CENTRAL COAST PATENT AGENCY PO BOX 187 AROMAS, CA 95004			NGUYEN, TOAN D	
		ART UNIT	PAPER NUMBER	
		2665	30	
DATE MAILED: 07/14/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/113,491	CALLON ET AL.
	Examiner	Art Unit
	Toan D Nguyen	2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 08 October 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 2-22,24-34 and 36-38 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2,4-14,22,24-27,29-33 and 36-38 is/are rejected.
- 7) Claim(s) 3,15-21,28 and 34 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 4-14, 22, 27 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Endo et al. (US 5,764,624).

For claims 2, 4, 6-7, 9-13 and 14, Endo et al. disclose ATM switching system and path changing method, comprising:

for at least one of the nodes (figure 21, reference 101, col. 3 line 66 to col. 4 line 2), generating and storing an alternate output route out of the node such that (figure 1, reference 25, col. 4 lines 51-55), in the event that data packets to be transferred toward a destination node (figure 9A, reference R1) cannot be forward to the next successive node (figure 9A, reference N2) over the link associated with the destination node (figure 9A, reference R1), the at least one of the nodes (figure 9A, references N4 and N5) can forward the data packets over the alternate output route toward the destination node (col. 7 lines 44-52); and

after generating and storing the alternate output route (figure 1, reference 25, col. 4 lines 51-55 and col. 7 line 44), if data packet to be transferred toward a destination node (figure 9A, reference R1) cannot be forward to the next successive node (figure 9A, reference N2) over the link associated with the destination node (reference R1), forwarding the data packets over the

alternate output route toward the destination node (figure 9A, reference R1)(col. 7 lines 44-52), by embedding the data in virtual packets addressed for the alternate route (col. 9 lines 56-65).

For claims 5, 8, 22 and 29, Endo et al. disclose the output alternate output route is a connection-oriented route (col. 9 lines 10-20).

For claims 27 and 30-33, Endo et al. disclose ATM switching system and path changing method, comprising:

means for generating and storing, for at least one of the nodes (figure 21, reference 101, col. 3 line 66 to col. 4 line 2), an alternate output route out of the node such that (figure 1, reference 25, col. 4 lines 51-55), in the event that data packets to be transferred toward a destination node (figure 9A, reference R1) cannot be forward to the next successive node (figure 9A, reference N2) over the link associated with the destination node (figure 9A, reference R1), the at least one of the nodes (figure 9A, references N4 and N5) can forward the data packets over the alternate output route toward the destination node (col. 7 lines 44-52); and

means for forwarding the data packets over the alternate output route toward the destination node (figure 9A, reference R1)(col. 7 lines 44-52) after generating and storing the alternate output route (figure 1, reference 25, col. 4 lines 51-55 and col. 7 line 44), if data packets to be transferred toward a destination node (figure 9A, reference R1) cannot be forward to the next successive node (figure 9A, reference N2) over the link associated with the destination node (reference R1),

characterized in that data packets to be transferred are embedded in virtual packets addressed for the alternate route, and then sent (col. 9 lines 56-65).

3. Claims 24-25 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Endo et al. (US 5,764,624) in view of Ferstenberg et al. (US 5,873,071).

For claims 24-25 and 36-37, Endo et al. do not disclose the network comprises at least a portion of the Internet and intranet. In an analogous art, Ferstenberg et al. disclose the network comprises at least a portion of the Internet and intranet (col. 16 line 11).

One skilled in the art would have recognized internet and intranet to use teaching of Ferstenberg et al. in the system of Endo et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention, to use the internet and intranet as taught by Ferstenberg et al. in Endo et al.'s system with the motivation being to use a private and public network (col. 16 line 11).

4. Claims 26 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Endo et al. (US 5,764,624) in view of Gerzberg et al. (US 6,229,810).

For claims 26 and 38, Endo et al. do not disclose the network comprises at least a portion of an extranet. In an analogous art, Gerzberg et al. disclose the network comprises at least a portion of an extranet (figure 18, col. 15 lines 38-48).

One skilled in the art would have recognized the extranet to use teaching of Gerzberg et al. in the system of Endo et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention, to use the extranet as taught by Gerzberg et al. in Endo et al.'s system with the motivation being to provide the flexibility of point-to-point tunneling protocol allows the implementation to be client initiated or client transparent, but does require IP support (col. 15 lines 42-44).

***Allowable Subject Matter***

5. Claims 3, 15-21, 28 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response To Arguments***

6. Applicant's arguments filed on October 8, 2004 have been considered but are moot in view of the new ground(s) of rejection.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

*TN*  
T.N.



HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600